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EXAMINER

DENNISON, JERRY B

ART UNIT

PAPER NUMBER

2143

DATE MAILED: 04/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/076,441

Applicant(s)

GRYAZNOV, DMITRY

Examiner

J. Bret Dennison

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE ____ MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 February 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-57 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-57 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 February 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

This Action is in response to Application Number 10/076,441 received on 19 February 2002.

Claims 1-57 are presented for examination.

Claim Objections

Claims 51 and 53 are objected to because of the following informalities: Claims 51 and 53 include the same exact limitations. Claim 53 is dependent on claim 51. Examiner assumes that claim 53 was meant to be dependent on claim 52. Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 29 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 29 recites "A computer program product... comprising: a computer readable medium". It is unclear to Examiner how a computer program product can comprise a computer readable medium. Examiner will interpret the claim as "a computer program product on a computer readable medium. Appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-57 are rejected under 35 U.S.C. 102(e) as being anticipated by FitzGerald, "Virus Bulletin", ISSN 0956-9979, October 1998.

Regarding claims 1, 15, 29, 34, and 44, FitzGerald disclosed a method of detecting a computer malware comprising the steps of:

joining an Internet Relay Chat server;

retrieving a list of channels of the Internet Relay Chat server;

monitoring at least one channel in the list of retrieved channels;

accepting data received from the monitored channel; and

storing and logging the data received from the monitored channel (FitzGerald taught a 'bot' to monitor selected IRC channels, which collects files from the channels to scan for malware).

Claims 15, 29, 43, and 44 include the limitations of claim 1, requiring a system or a program product. Because Hughes taught a system and method for the limitations of

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claim 1, claims 15, 29, 43, and 44 are rejected with the same art as being substantially similar to claim 1.

Claims 1-57 are rejected under 35 U.S.C. 102(e) as being anticipated by The Gale Group, "GeCAD introduces Romainian Antivirus 6.50", GUI Program News, v9, n12, Dec 1998.

Regarding claims 1, 15, 29, 34, and 44, The Gale Group disclosed a method of detecting a computer malware comprising the steps of:

- joining an Internet Relay Chat server;
- retrieving a list of channels of the Internet Relay Chat server;
- monitoring at least one channel in the list of retrieved channels;
- accepting data received from the monitored channel; and
- storing and logging the data received from the monitored channel (The Gale Group disclosed a program to monitor Internet Relay Chat channels for Malware and Viruses, after collecting them in a local database, Romanian Antivirus is used to detect if downloaded files are infected or potentially dangerous, and based on the log HTML statistics are provided, indicating what IRC malware is most prevalent).

Claims 15, 29, 43, and 44 include the limitations of claim 1, requiring a system or a program product. Because Hughes taught a system and method for the limitations of claim 1, claims 15, 29, 43, and 44 are rejected with the same art as being substantially similar to claim 1.

Claims 1-57 are rejected under 35 U.S.C. 102(e) as being anticipated by Hughes et al. (U.S. Patent Number 6,389,472).

Regarding claims 1, 15, 29, 34, and 44, Hughes disclosed a method of detecting a computer malware comprising the steps of (Hughes, col. 13, lines 60-65, Hughes taught virus scanning software):

joining an Internet Relay Chat server (Hughes, col. 16, lines 1-2, Hughes taught joining a chat server and joining a chat room);

retrieving a list of channels of the Internet Relay Chat server (Hughes, col. 15, lines 59-65, col. 16, lines 1-2, Hughes taught that the chat room may be chosen and joined in any of a number of conventional ways, a conventional way being receiving a list of chat rooms to join);

monitoring at least one channel in the list of retrieved channels (Hughes, col. 16, lines 1-2, Hughes taught joining a chat room and monitoring the chat room for inappropriate content);

accepting data received from the monitored channel (Hughes, col. 16, lines 3-5);
and

storing and logging the data received from the monitored channel (Hughes, col. 16, lines 5-7).

Claims 15, 29, 43, and 44 include the limitations of claim 1, requiring a system or a program product. Because Hughes taught a system and method for the limitations of

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claim 1, claims 15, 29, 43, and 44 are rejected with the same art as being substantially similar to claim 1.

Regarding claims 2-4, 16-18, 30-31, and 45-47, Hughes taught the limitations, substantially as claimed, as described in claims 1, 15, 29, 34, and 44, including wherein the monitoring step comprises joining a channel (Hughes, col. 16, lines 1-2). However, Hughes does not explicitly state simulating user activities, transmitting a message to the channel, waiting a time delay and leaving the channel. It would have been obvious for one of ordinary skill in the art at the time of the invention that the system transmits a message to the channel in order to join, and eventually would leave the chat room after a certain time period in order for the process to complete.

Regarding claims 5, 19, 33, and 48, Hughes taught the limitations, substantially as claimed, as described in claims 1, 15, 29, 34, and 44, including scanning the received data to detect a computer malware (Hughes, col. 16, lines 7-15).

Regarding claims 6, 20, 34, and 49, Hughes taught the limitations, substantially as claimed, as described in claims 5, 19, 33, and 48, including wherein the computer malware comprises at least one of a computer virus, a computer worm, or a computer Trojan Horse Program (Hughes, col. 13, lines 60-65, Hughes taught scanning for viruses).

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Regarding claims 7, 21, 35, and 50, Hughes taught the limitations, substantially as claimed, as described in claims 1, 15, 29, 34, and 44, including analyzing the stored and logged data to detect a computer malware (Hughes, col. 13, lines 60-65, Hughes taught scanning for viruses which requires analyzing the data).

Regarding claims 8, 22, 36, and 51 and 53, Hughes taught the limitations, substantially as claimed, as described in claims 7, 21, 35, and 50, including wherein the computer malware comprises at least one of a computer virus, a computer worm, or a computer Trojan Horse Program (Hughes, col. 13, lines 60-65, Hughes taught scanning for viruses).

Regarding claims 9, 23, 37, and 52, Hughes taught the limitations, substantially as claimed, as described in claims 7, 21, 35, and 50, including scanning the received data to detect a computer malware (Hughes, col. 13, lines 60-65, Hughes taught scanning for viruses).

Regarding claims 10, 24, and 38, Hughes taught the limitations, substantially as claimed, as described in claims 9, 23, and 37, including wherein the computer malware comprises at least one of a computer virus, a computer worm, or a computer Trojan Horse Program (Hughes, col. 13, lines 60-65, Hughes taught scanning for viruses).

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Claims 11-14, 25-28, 39-42, and 54-57 include the same limitations as claims 2-4, 6 16-18, 20, 30-32, 34, 45-47, and 49. Because the same art was used for the rejections of claims (7, 21, 35, 50) as used for the rejections of claims (1, 15, 29, 43, and 44), claims 11-14, 25-28, 39-42, and 54-57 are also rejected under the same basis.

Conclusion

Examiner's Note: Examiner has cited particular columns and line numbers in the references applied to the claims above for the convenience of the applicant. Although the specified citations are representative of the teachings of the art and are applied to specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant in preparing responses, to fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the Examiner.

In the case of amending the claimed invention, Applicant is respectfully requested to indicate the portion(s) of the specification which dictate(s) the structure relied on for proper interpretation and also to verify and ascertain the metes and bounds of the claimed invention.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to J. Bret Dennison whose telephone number is (571) 272-3910. The examiner can normally be reached on M-F 8:30am-5pm.


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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David A Wiley can be reached on (571) 272-3923. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



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